

IN THE SUPREME COURT OF THE STATE OF DELAWARE
DELAWARE SUPREME COURT
FILED

IN RE AMENDMENT TO
SUPREME COURT RULE 69

§
§
§

2003 NOV -7 P 2:33

DEPUTY CLERK
WILMINGTON

Before VEASEY, Chief Justice, HOLLAND, BERGER, STEELE and JACOBS, Justices (constituting the Court *en Banc*).

ORDER

This 5th day of November 2003, it appears to the Court that Rule 69 of the Rules of the Delaware Supreme Court should be amended to establish an “emeritus member” category of Bar membership. The amendments set forth in this Order consist of additions to subsections (a) and (c), the re-designation of subsections (g), (h), (i) and (j) as subsections (h), (i), (j) and (k) respectively, and the addition of a new subsection (g).

NOW, THEREFORE, IT IS ORDERED, effective immediately, that Rule 69 is amended to read, in its entirety, as follows:

Rule 69. Categories of Bar membership and annual registration.

(a) *Categories of membership.* There shall be five categories of members of the Bar of this Court: (i) active, (ii) inactive, (iii) judicial, (iv) retired, and (v) emeritus.

(b) *Registration and assessments.* (i) Statement. Active and inactive members shall, as a condition of membership, no later than February

1 of each year, file with the Clerk of this Court, in a form approved by the Court, a registration statement showing the member's name, residence address, office address, office telephone number, firm association, public office held (if any), and such other information as the Court shall direct.

(ii) **Active assessment.** Active members shall pay a registration assessment of \$10 and shall pay such assessments as shall be made pursuant to Supreme Court Rule 66(e) (i), Supreme Court Rule 64(g) and Delaware Rules for Mandatory Continuing Legal Education Rule 3(C) (3) (a).

(iii) **Inactive assessment.** Inactive members shall pay an annual registration assessment of \$10 and an annual application assessment of \$65 but shall pay no other assessments.

(iv) **Failure to register on time.** Any active or inactive lawyer, or a Delaware lawyer employed as a Justice of the Peace, Court Commissioner or Master on a full-time basis who fails to file an Annual Registration Statement by February 1 of each year shall pay a \$50 late filing assessment.

(c) *Active members.* All members of the Bar who are not inactive, judicial, retired or emeritus members are active members.

(d) *Inactive members.* (i) **Application.** A member of the Bar who is not engaged in the practice of law in Delaware or who limits that

member's practice of law in Delaware to uncompensated services to clients of one or more of Delaware Volunteer Legal Services, Inc., Community Legal Aid Society, Inc., Delaware Council on Crime and Justice, Inc., the Office of the Child Advocate, the Office of the Public Defender, and the Department of Justice may, upon application to the Clerk of the Court, become an inactive member. Upon compliance with paragraph (b)(ii) of this Rule and Rule 4(C) (3) of the Delaware Rules for Mandatory Continuing Legal Education, an inactive member may become an active member.

(ii) Assessment exemption. Whenever a member is classified as inactive, the Clerk of the Court shall notify the Lawyers' Fund for Client Protection, the Office of Disciplinary Counsel, and the Commission on Mandatory Continuing Legal Education and that member shall be exempt automatically from the assessments described in Rule 64(g), Rule 66(e) (i) and Delaware Rules for Mandatory Continuing Legal Education Rule 3(C) (3) (a).

(iii) Inactive card. The term certificate of exemption as used in the Delaware Rules for Mandatory Continuing Legal Education Rule 4(C) shall mean a certificate of inactive status and a registration card certifying inactive status.

(e) *Judicial members.* Judicial members are those judges, commissioners, and masters who are disqualified from the practice of law and those retired judges who do not practice law.

(f) *Retired members.* (i) Limitations and duties. A member of the Bar who is not engaged in the practice of law in Delaware may, upon application to the Clerk of the Court, be granted a certificate of retirement and, so long as the member does not practice law in Delaware other than as provided herein, shall not thereafter be required to comply with this Rule. A retired member may not become an active or inactive member without (1) demonstrating, to the Court's satisfaction, the moral qualifications, competency and learning in the law required for admission to practice and (2) compliance with subsection b of this Rule. The Court may refer any retired member seeking to resume active status to the Board of Bar Examiners for determination of suitability to resume active status. Retired members may engage in uncompensated services to clients of one or more of Delaware Volunteer Legal Services, Inc., Community Legal Aid Society, Inc., Delaware Council on Crime and Justice, Inc., the Office of the Child Advocate, the Office of the Public Defender, and the Department of Justice.

(ii) Exemption from assessment. Whenever a certificate of retirement is issued, the Clerk of the Court shall notify the Lawyers' Fund for Client Protection, the Office of Disciplinary Counsel, and the Commission on Mandatory Continuing Legal Education. A retired member shall be exempt from the assessments set forth in Rule 64(g), Rule 66(e) (i) and Delaware Rules for Mandatory Continuing Legal Education Rule 4(C).

(g) *Emeritus members.* (i) An emeritus member shall be at least sixty-five (65) years of age, unless waiver thereof is granted by the Supreme Court.

(ii) A Delaware attorney applying to the Court for emeritus member status must be in good standing at the time of the application for emeritus member status.

(iii) An active attorney must apply to the Court in writing for emeritus member status.

(iv) Except for special assignments pursuant to Court order, emeritus members may represent only non-profit entities, including, *inter alia*, Internal Revenue Code § 501(c) (3) entities, religious organizations, educational and governmental institutions as well as clients that inactive members of the Bar may represent pursuant to the existing Rules of the

Supreme Court. Emeritus members may not represent individuals, whether for compensation or not, except as permitted by this subsection.

(v) Except for compensation as ordered by the Court, emeritus members may not seek or receive compensation or reimbursement of any kind for legal services, although they may be reimbursed for documented out-of-pocket expenses in connection with permitted legal services.

(vi) Emeritus members are exempt from fees and assessments, except for the Supreme Court's registration fee.

(vii) Emeritus members are under no obligation to fulfill any CLE requirements, but will be required to comply with Rule 4(C) (3) of the Delaware Rules for Mandatory Continuing Legal Education, should such emeritus member apply again to become an active member.

(viii) Emeritus members shall use their best efforts to cause Martindale Hubbell and other legal lists to state that such attorney is an emeritus member of the Delaware Bar with the term "emeritus member" being expressly defined on all legal lists and legal stationery as a licensed Delaware attorney whose practice is limited to representing charitable and non-profit organizations without compensation, except where compensation is ordered by the Court.

(ix) The Delaware Supreme Court may, at any time, upon notice to an emeritus member and an opportunity to be heard, cause the status of the emeritus member to be changed, by Order, to inactive member.

(h) *Continuing obligation to notify the Clerk of the Court of changes.* Each active and inactive member of the Bar is required to notify the Clerk of the Court in writing within 30 days of any change in the information provided in the member's most recent registration statement.

(i) *Certain duties of the Clerk of the Court.* The Clerk of the Court shall: (i) deposit forthwith all assessments received in a special account maintained, regulated and audited by the State for that purpose; (ii) mail to each member of the Bar who files a registration statement and pays the assessments a registration card, in a form approved by the Court, certifying that such member is in good standing either as an active or inactive member of the Bar; and (iii) distribute funds from such special account: (1) to pay the necessary expenses incurred by the Court in administering this Rule and (2) for such other purposes related to the regulation of the practice of law as the Court shall direct.

(j) *Suspension of membership.* On or before April 1 of each year, the Clerk of the Court shall issue by certified or registered mail at the

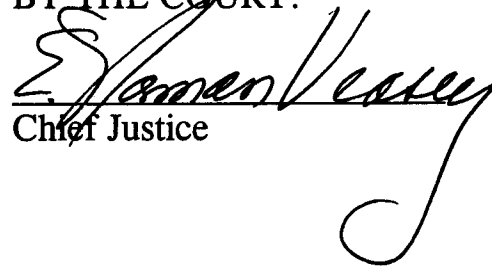
address furnished pursuant to subsection b(i) of this Rule (or if no such address has been furnished at the last address known to the Court), to each member of the Bar who has failed to comply with this Rule, a rule to show cause why such member should not be suspended as a member of the Bar.

(k) *Resignation.* Upon acceptance of the resignation by the Court, a member who resigns shall no longer be a member of the Bar.

The Clerk of the Court is directed to transmit forthwith a certified copy of this Order to the Prothonotary and the Register in Chancery of each county, the Clerk of the Court of Common Pleas and the Clerk of the

Family Court in each county, and the Chief Magistrate of the Justice of the
Peace Courts.

BY THE COURT:


Chief Justice